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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/664,552	09/18/2003	Bert W. Elliott	25244A	4288

22889 7590 10/18/2004

OWENS CORNING
2790 COLUMBUS ROAD
GRANVILLE, OH 43023

EXAMINER

CHAPMAN, JEANETTE E

ART UNIT	PAPER NUMBER
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3635

DATE MAILED: 10/18/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/664,552

Applicant(s)

ELLIOTT ET AL. 

Examiner

Chapman E Jeanette

Art Unit

3635

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on 18 September 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-27 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-4, 6-12, 15-20 and 22-27 is/are rejected.
- 7) ☒ Claim(s) 5, 13, 14 and 21 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|----------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>1/23/04</u> . | 6) <input type="checkbox"/> Other: _____ |

35 USC 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-4, 6-12, 15-20, 22-27 are rejected under 35 U.S.C. 103(a) as being unpatentable over Daimond (4148168) in view of King et al (6220329). Daimond discloses a method of covering a roof deck comprising:

- Laying a plurality of successive horizontal courses of covering shingles above a starter shingles laid in a side-by-side relationship at an eave edge of a roof deck; see figure 4A;
- The covering singles laid in a side-by-side relationship and horizontally offset from the covering shingles in adjacent courses;
- Each covering shingle includes a headlap portion and a butt portion;
- The butt portion includes a plurality of tabs 22 separated by cutouts 14A;
- Diamond shows a difference in height between the covering and starter shingle; the exact difference has been considered a matter of choice; one of ordinary skill in the art would have appreciated any height difference which would provide for the intended purpose and function of the method
- The butt portions of the starter shingles have an overall color appearance that is similar to an overall color appearance of the covering shingles

Diamond lacks the starter shingle of the course of starter shingles is a laminated starter shingles comprising an underlay and overlay sheet. Diamond also lacks the starter shingle including an exposed portion extending between tabs of the covering shingles. King et al discloses the starter shingle and the course shingles which are both laminated comprising an underlay and overlay sheet. See figures 10b and 11b. King also discloses the starter shingle including an exposed portion extending between tabs of the covering shingles. See figures 6-7. Again, the covering shingle is a laminated covering shingle with a overlay member having a headlap and a butt portion; the underlay member is attached to the rear surface of the butt portion of the overlay member because the underlay member and the overlay member define a laminated covering shingle. The butt portion includes a plurality of tabs separated by cutouts and the cutouts extending through the laminated covering shingle wherein the exposed portion of the starter shingle extends between the tabs of the covering shingles. See figures 6-7.

King also discloses the butt portion including a butt edge and the underlay sheer includes a lower edge. The lower edge and the butt edge are vertically aligned to define a lower edge. The lower edge of the covering shingles in the first course is vertically aligned with the lower edge of the starter shingles. See figure 10b, 11b and 6-7.

King et al discloses a pplying a bead of adhesive to a bottom surface of the underlay sheet; see figures 10b and 11b

Claims 5, 13-14, 21 are objected to as depending upon a rejected base claim but would be considered as allowable if amended to include the base claim and any intervening claims.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Chapman E Jeanette whose telephone number is 703-308-1310. The examiner can normally be reached on Mon.-Fri, 8:30-6:00, every other fri. off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Friedman Carl can be reached on 703-308-0839. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Jeanette Chapman
Primary Examiner